

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1076 of 1987

Hon'ble MR.JUSTICE S.D.DAVE

and

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

FOOD SPECIALITIES LTD.,

Versus

THE CONTROLLER, WEIGHTS & MEASURES & EX-OFFICIO CONTROLLER

Appearance:

MR HM DHARVA for Petitioners

MR.K.C. SHAH, PUBLIC PROSECUTOR for Respondents

CORAM : MR.JUSTICE S.D.DAVE and

MR.JUSTICE Y.B.BHATT

Date of decision: 02/07/97

ORAL JUDGEMENT (Per S.D. Dave J.)

1. The petitioner no.1 before us happens to be a limited company viz. Food Specialities Limited, having their registered office at New Delhi. Petitioner Nos.2 to 7 are said to be the Directors of the abovesaid

company. The petitioner no.1 company happens to be the original accused no.2, while the Directors happen to be the original accused person nos.3 to 8. The petitioner no.8 happens to be the Proprietor of a partnership firm. Again the petitioner no.9 is a partnership firm and the rest of the petitioners happen to be the partners of the said partnership firm.

2. The petition arises because of the filing of the complaint Annexure-L, page 57 in the compilation before us. One Shri Raval who was working as Inspector, Weights and Measures, had visited the premises of M/s Bhagvati Trading Co., at Old Madhupura, Ahmedabad, on November 27, 1986. The visit was made by Mr. Patel and Mr. Pandey in exercise of their powers under the Standards of Weights and Measures Act, 1976. It was found by them that the accused no.1 and accused nos.9 to 19 had violated the provisions contained under section 39(1) of the Standards of Weights and Measures Act, 1976 and under Rule 23(1) read with Rule 6(1)(c) of the Rules of 1977, while the accused nos.2 to 8 had violated the provisions contained under section 39(1) of the Act of 1976 and the provisions contained under rule 4 read with rule 6(1)(c) of the Rules of 1977. The present petition is for the quashing of the abovesaid complaint.

3. Learned counsel Mr. Dhurva who appears on behalf of the petitioners urges that the complaint requires to be quashed after the full recognition of the present petition because of the two counts. Learned counsel firstly urges that the complaint filed by the complainant only specifies certain provisions of the Act and the Rules, but does not say or provide the particulars and the manner in which the alleged offences were committed by the accused persons. The second contention coming from the learned counsel Mr. Dhruva is based upon the pronouncement of this court in Special Criminal Application No.1334/97, decided on May 7, 1997. The first contention coming from the learned counsel requires to be accepted because upon a perusal of the complaint certain sections and the rules, both of the Act of 1976 and the Rules 1977 have been referred to, but that has been done without providing the particulars which would go to demonstrate as to how there has been the breach of the provisions contained under the abovesaid sections or the rules.

4. When the reference is made to the orders passed by this court in Special Criminal Application No.1334/87, it appears that while allowing the group of petitions, two factors had weighed before the learned single Judge.

It was appreciated by the learned single Judge that the maximum sentence provided for the commission of the offences mentioned in those complaints would be Rs.5000/-. The second aspect which had weighed much before the learned single Judge was the fact that the alleged offences were said to have been committed in the year 1987. Both the factors are available to us also in the present petition. The offence punishable under section 39(1) would attract the maximum penalty of Rs.2000/-. The maximum penalty for the breach of the rules would also not go beyond Rs.5000/-. In view of this position, in our view, the abovesaid aspect regarding the maximum sentence as indicated by the learned single Judge would operate for the petitioners in the present petition also. The second aspect is equally available because the complaint came to be filed on 12th August 1987. In view of this we are of the opinion that no useful purpose would be served by continuing the present proceedings initiated against the petitioners. For the aforesaid reasons the petition succeeds and the same is hereby allowed. The complaint in question is quashed. Rule is made absolute accordingly.
